



U.S. Department of Justice

Brett L. Tolman

**United States Attorney
District of Utah**

**FOR IMMEDIATE RELEASE
OCT. 2, 2008**

**CONTACT: MELODIE RYDALCH
801-325-3206
801-243-6475 (CELL)**

PRESS RELEASE

GRAND JURY RETURNS INDICTMENT CHARGING KAYSVILLE BUSINESSMAN, COMPANY WITH EPA VIOLATIONS

SALT LAKE CITY -- A three-count indictment returned by a federal grand jury Wednesday morning charges a Kaysville businessman and a company he owns and operates with three violations of federal law in connection with the disposal of hazardous waste at the company both under the ground and in the sewer system.

Charged in the indictment are Jay Bert Atwater, age 54, of Kaysville and Heritage Restoration, a Utah corporation, owned and operated by Atwater. Atwater is charged in all three counts. The company is charged in count three. The three counts allege violations of the Safe Drinking Water Act, the Resource Conservation and Recovery Act by disposing of hazardous waste without a permit, and the Clean Water Act.

Potential penalties for the violations include up to three years in prison and a fine of \$250,000 for counts one and three of the indictment and up to five years for count two. A summons has been issued to Atwater to appear for an initial appearance on the charges Nov. 4, 2008, at 11:30 a.m. in

U.S. Magistrate Judge David Nuffer's courtroom. Defendants charged in indictments are presumed innocent unless or until proven guilty in court.

The indictment alleges that Atwater has operated Heritage Restoration, Inc. in Kaysville for about eight years. Atwater's business included refinishing and repairing furniture. As part of the furniture-refinishing process, an industrial paint remover consisting primarily of methylene chloride was used to strip old paint, varnish, or lacquer from furniture brought in for restoration. After stripping, Atwater and employees operating under his direction pressure-washed the paint remover from the furniture, creating a solution that contained water, methylene chloride, and other chemicals.

The indictment alleges three separate crimes as to the disposal of this rinse solution. First, the indictment alleges that the rinse solution was discharged through a pipe that led into the subsurface soil immediately adjacent to the business; and because Atwater did not have a permit for a subsurface injection of the rinse solution, he violated the Safe Drinking Water Act.

Second, the indictment alleges that the rinse solution was a listed hazardous waste, which Atwater knowingly disposed of in violation of the Resource Conservation and Recovery Act, the nation's primary hazardous waste law.

Finally, the indictment also alleges that, over a period of months in 2007, Atwater knowingly discharged this rinse solution into the Central Davis Sewer District. These alleged discharges violated a specific regulation under the Clean Water Act, which prohibits discharges into a publicly-owned wastewater treatment plant that result in the presence of toxic gases, vapors, or fumes in a quantity that may cause acute worker health or safety problems.

The case is being investigated by special agents of the EPA.

####